

making gains or profits for the corporation or members; and, is legally precluded from distributing to its members any gains or profits.

(b) A *public nonprofit organization* is a nonprofit corporation other than a private nonprofit corporation, including a municipal corporation or other corporate agency of a State or local government.

(c) *Rural area* is open country or rural places as defined in 7 CFR part 3550, subpart A.

(d) *Development cost* means the cost of purchasing and developing the sites including engineering and legal fees, streets, roads, utilities, minimum essential administrative costs, necessary equipment and estimated interest which the borrower cannot pay from other sources.

(e) *RHS section 523 loan* means a loan to an organization which will provide sites for housing to be built by the self-help method.

(f) *RHS section 524 loan* means a loan to an organization which will provide sites for housing to be built with no limitation as to the method of construction that will be used.

(g) *OGC* means the Office of the General Counsel, including the regional attorney or attorney in charge serving the State in which the RHS project is located.

[35 FR 10687, July 1, 1970, as amended at 40 FR 52837, Nov. 13, 1975; 46 FR 61989, Dec. 21, 1981; 67 FR 78326, Dec. 24, 2003]

§ 1822.264 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an RHS loan, the applicant must be a private or public nonprofit organization as defined in § 1822.263 (a) or (b) which is authorized to provide housing sites on a nonprofit basis.

(1) If it is a private nonprofit organization as defined in § 1822.263(a), it should also:

(i) Have a membership of at least 10 community leaders.

(ii) Plan to adopt, if it is being newly organized, articles of incorporation and bylaws that generally conform to model articles and bylaws provided by the State director which will be consistent with State law and with changes appropriate to the purposes

and powers of an eligible applicant under this subpart.

(2) [Reserved]

(b) *Authorized representative of applicant.* The Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 will deal only with the applicant or bona fide representative or the applicant or the representative's technical advisors. An authorized representative of the applicant must have no pecuniary interest in the award of the engineering, architectural or construction contracts, necessary equipment, or the purchase or development of the land.

§ 1822.265 Loan purposes.

RHS loans may be made to qualified applicants:

(a) For the purchase and development of adequate sites, including the construction of essential access roads, streets, utility lines, and necessary equipment which will become a permanent part of the development. If public water and waste disposal facilities are not available and cannot reasonably be provided on a community basis with other financing, including FmHA or its successor agency under Public Law 103-354 Water and Waste Disposal Association loans, funds may be included for this purpose.

(b) For the payment of necessary engineering fees, legal fees, and closing costs.

(c) For the payment of actual cash cost of incidental administrative expenses such as postage, telephone, advertising, and temporary secretarial help, if funds to pay these expenses are not otherwise available. The estimated cost of these items should be identified and shown in the budget.

(d) To provide for needed landscaping, planting, seeding, or sodding, or other necessary facilities related to buildings such as walks, parking areas, and driveways.

(e) When legally required by proper local, county, and State Governmental bodies as a condition for subdivision approval, RHS loan funds may be used to provide common areas playgrounds and tot lots, provided such facilities

§ 1822.266

are dedicated to, and maintained by, a public body.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

[35 FR 16087, July 1, 1970, as amended at 43 FR 24264, June 5, 1978]

§ 1822.266 Limitations.

(a) *Loan limits.* No RHS loan(s) will be made to any applicant which will result in the applicant's owning an unpaid principal balance of more than \$100,000 on such loan(s) unless prior authorization for a larger loan is obtained from the national office. No such loan will exceed the development cost as defined in §1822.263(d), or the value of the property as improved with the loan. These limitations also apply to cases in which the same persons hold a majority of the membership interests or constitute a majority of the directors of two or more applicants.

(b) *Limitations of use of loan funds.* Loans will not be made for:

(1) The purchase of land in excess of the immediate and identified needs in the locality.

(2) The purchase of land from a member of an applicant-organization, or from another organization in which any member of the applicant-organization has an interest, without prior consent of the national office.

(3) Refinancing of debts, except in accordance with paragraph (e) of this section.

(4) Payment of any fee, charge, or commission to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of a loan.

(5) Payment of any fee, salary, commission, profit, or compensation to an applicant, or to any officer, director, trustee, stockholder, member or agent of an applicant, except as provided in §1822.265(b). No contract or agreement for services to be paid for with loan funds should be executed by the applicant without prior approval by the State director.

(c) *Sale of developed sites.* The sites developed with a section 524 loan must be for housing low- and moderate-income families and may be sold to families, nonprofit organizations, public agen-

7 CFR Ch. XVIII (1-1-05 Edition)

cies, and cooperatives eligible for assistance under any section of title V of the Housing Act of 1949, or under any other law which provides financial assistance. For example, this may include:

(1) Individuals with low and moderate incomes eligible for HUD mortgages.

(2) Individuals with low and moderate incomes eligible for VA guaranteed loans.

(3) Individuals with low or moderate incomes eligible for a loan from any private lender which is authorized by law to provide financial assistance for housing.

(4) Nonprofit organizations funded by Federal, State, or local governments carrying out programs for low- and moderate-income families to obtain housing.

(5) State or local public agencies such as a housing authority or a housing finance development agency carrying out programs for low- and moderate-income families to obtain housing.

(d) *Suitability of sites.* Sites will meet the requirements of the planned use; for example, individual housing or multiple housing or any combination thereof. Building sites must be well located and designed to provide a desirable living environment. Generally a loan will not be made for the development of less than 10 units, but they need not be contiguous.

(e) *Obligations incurred before loan closing.* When an applicant files an application for a loan, the county supervisor will advise the applicant that development work must not be started and obligations for work, materials, or land purchase must not be incurred before the loan is closed. If, nevertheless, the applicant incurs obligations for work, materials, or land purchase before the loan is closed, the State director may authorize the use of loan funds to pay such obligations only when he finds that all the following conditions exist:

(1) The obligations were incurred after the applicant filed a written application for a loan.

(2) The applicant is unable to pay such obligations from its own resources or to obtain credit from other sources, and failure to authorize the use of loan